

ASSEMBLY BILL

No. 2507

Introduced by Assembly Member Bocanegra

February 21, 2014

An act to amend Section 6254 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2507, as introduced, Bocanegra. Public Records Act: exemptions: pending litigation.

Existing law, the California Public Records Act (CPRA), requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure, upon the payment of fees to cover costs.

Existing law exempts from the CPRA's disclosure requirements any records pertaining to pending litigation to which the public agency is a party, until the pending litigation or claim has been finally adjudicated or otherwise settled.

This bill would provide that public agency attorney billing records, when they are prepared in connection with pending litigation, are exempt from the CPRA's disclosure provisions during the pendency of the litigation.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (1) Interpretation of the California Public Records Act is a matter
4 of great significance to public entities across the state. Public
5 entities and public employees necessarily participate in litigation
6 on an ongoing basis as part of conducting the public's business. It
7 is therefore vital that clear guidelines be established with respect
8 to the application of the act as it relates to pending litigation.
- 9 (2) Public entities must often retain outside counsel to prosecute
10 and defend actions in the public's interest. Public entities
11 throughout the state have a strong interest in having clear guidelines
12 established concerning records pertaining to pending litigation
13 generated by outside counsel.
- 14 (3) Without clarification, every public entity in the state is
15 subject to ongoing requests for attorneys' invoices, billing
16 statements, and cost amounts in pending cases that result in
17 increased administrative costs and compromise the defense and
18 prosecution of public actions.
- 19 (4) The right of the public to access records pertaining to
20 pending litigation will not be affected, as any such records,
21 notwithstanding any other provision of law, are not exempt from
22 disclosure under law upon final adjudication or settlement.
- 23 (5) It is necessary for a state and local agency to withhold certain
24 records from public disclosure to permit that agency to properly
25 perform their governmental functions, including their ability to
26 prosecute and defend themselves in public actions.
- 27 (6) The pending litigation exemption is designed to prevent a
28 litigant opposing a governmental entity from using the act to secure
29 earlier or greater access to records than would be then would be
30 otherwise available under the rules of civil discovery.
- 31 (7) There is a public interest in the disclosure of the resources
32 and funds expended in litigation involving a public entity. There
33 is, however, no public interest to be served in disclosing that
34 information, particularly attorneys' invoices, billing statements,

1 and cost amounts while litigation is pending against the public
2 entity.

3 (8) Disclosing such information to a public entity's adversary
4 in litigation will have the negative impact of also disclosing how
5 the public entity is utilizing its resources on a particular case while
6 it is pending, and thus revealing an entity's case valuation and
7 strategy. This will unbalance the scales of justice and prejudice
8 the public entity in settlement negotiations and trial.

9 (9) Information about attorneys' invoices, billing statements,
10 and cost amounts in the course of ongoing pending litigation
11 affords litigants opposing a public entity a tactical insight to exploit
12 for purposes of accelerating litigation at a particular point,
13 prolonging litigation, or timing a settlement demand and puts the
14 public entity at a disadvantage that the litigation exemption was
15 designed to prevent.

16 SEC. 2. Section 6254 of the Government Code is amended to
17 read:

18 6254. Except as provided in Sections 6254.7 and 6254.13,
19 nothing in this chapter shall be construed to require disclosure of
20 records that are any of the following:

21 (a) Preliminary drafts, notes, or interagency or intra-agency
22 memoranda that are not retained by the public agency in the
23 ordinary course of business, if the public interest in withholding
24 those records clearly outweighs the public interest in disclosure.

25 (b) Records pertaining to pending litigation to which the public
26 agency is a party, *including attorneys' invoices, billing statements,*
27 *and requests for payment*, or to claims made pursuant to Division
28 3.6 (commencing with Section 810), until the pending litigation
29 or claim has been finally adjudicated or otherwise settled.

30 (c) Personnel, medical, or similar files, the disclosure of which
31 would constitute an unwarranted invasion of personal privacy.

32 (d) Contained in or related to any of the following:

33 (1) Applications filed with any state agency responsible for the
34 regulation or supervision of the issuance of securities or of financial
35 institutions, including, but not limited to, banks, savings and loan
36 associations, industrial loan companies, credit unions, and
37 insurance companies.

38 (2) Examination, operating, or condition reports prepared by,
39 on behalf of, or for the use of, any state agency referred to in
40 paragraph (1).

1 (3) Preliminary drafts, notes, or interagency or intra-agency
2 communications prepared by, on behalf of, or for the use of, any
3 state agency referred to in paragraph (1).

4 (4) Information received in confidence by any state agency
5 referred to in paragraph (1).

6 (e) Geological and geophysical data, plant production data, and
7 similar information relating to utility systems development, or
8 market or crop reports, that are obtained in confidence from any
9 person.

10 (f) Records of complaints to, or investigations conducted by,
11 or records of intelligence information or security procedures of,
12 the office of the Attorney General and the Department of Justice,
13 the Office of Emergency Services and any state or local police
14 agency, or any investigatory or security files compiled by any other
15 state or local police agency, or any investigatory or security files
16 compiled by any other state or local agency for correctional, law
17 enforcement, or licensing purposes. However, state and local law
18 enforcement agencies shall disclose the names and addresses of
19 persons involved in, or witnesses other than confidential informants
20 to, the incident, the description of any property involved, the date,
21 time, and location of the incident, all diagrams, statements of the
22 parties involved in the incident, the statements of all witnesses,
23 other than confidential informants, to the victims of an incident,
24 or an authorized representative thereof, an insurance carrier against
25 which a claim has been or might be made, and any person suffering
26 bodily injury or property damage or loss, as the result of the
27 incident caused by arson, burglary, fire, explosion, larceny,
28 robbery, carjacking, vandalism, vehicle theft, or a crime as defined
29 by subdivision (b) of Section 13951, unless the disclosure would
30 endanger the safety of a witness or other person involved in the
31 investigation, or unless disclosure would endanger the successful
32 completion of the investigation or a related investigation. However,
33 nothing in this division shall require the disclosure of that portion
34 of those investigative files that reflects the analysis or conclusions
35 of the investigating officer.

36 Customer lists provided to a state or local police agency by an
37 alarm or security company at the request of the agency shall be
38 construed to be records subject to this subdivision.

39 Notwithstanding any other provision of this subdivision, state
40 and local law enforcement agencies shall make public the following

1 information, except to the extent that disclosure of a particular
2 item of information would endanger the safety of a person involved
3 in an investigation or would endanger the successful completion
4 of the investigation or a related investigation:

5 (1) The full name and occupation of every individual arrested
6 by the agency, the individual's physical description including date
7 of birth, color of eyes and hair, sex, height and weight, the time
8 and date of arrest, the time and date of booking, the location of
9 the arrest, the factual circumstances surrounding the arrest, the
10 amount of bail set, the time and manner of release or the location
11 where the individual is currently being held, and all charges the
12 individual is being held upon, including any outstanding warrants
13 from other jurisdictions and parole or probation holds.

14 (2) Subject to the restrictions imposed by Section 841.5 of the
15 Penal Code, the time, substance, and location of all complaints or
16 requests for assistance received by the agency and the time and
17 nature of the response thereto, including, to the extent the
18 information regarding crimes alleged or committed or any other
19 incident investigated is recorded, the time, date, and location of
20 occurrence, the time and date of the report, the name and age of
21 the victim, the factual circumstances surrounding the crime or
22 incident, and a general description of any injuries, property, or
23 weapons involved. The name of a victim of any crime defined by
24 Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a,
25 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285,
26 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the
27 Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83
28 of the November 7, 2006, statewide general election), 288.5, 288.7,
29 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may
30 be withheld at the victim's request, or at the request of the victim's
31 parent or guardian if the victim is a minor. When a person is the
32 victim of more than one crime, information disclosing that the
33 person is a victim of a crime defined in any of the sections of the
34 Penal Code set forth in this subdivision may be deleted at the
35 request of the victim, or the victim's parent or guardian if the
36 victim is a minor, in making the report of the crime, or of any
37 crime or incident accompanying the crime, available to the public
38 in compliance with the requirements of this paragraph.

39 (3) Subject to the restrictions of Section 841.5 of the Penal Code
40 and this subdivision, the current address of every individual

1 arrested by the agency and the current address of the victim of a
2 crime, where the requester declares under penalty of perjury that
3 the request is made for a scholarly, journalistic, political, or
4 governmental purpose, or that the request is made for investigation
5 purposes by a licensed private investigator as described in Chapter
6 11.3 (commencing with Section 7512) of Division 3 of the Business
7 and Professions Code. However, the address of the victim of any
8 crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1,
9 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a,
10 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by
11 Chapter 337 of the Statutes of 2006), 288.3 (as added by Section
12 6 of Proposition 83 of the November 7, 2006, statewide general
13 election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6
14 of the Penal Code shall remain confidential. Address information
15 obtained pursuant to this paragraph may not be used directly or
16 indirectly, or furnished to another, to sell a product or service to
17 any individual or group of individuals, and the requester shall
18 execute a declaration to that effect under penalty of perjury.
19 Nothing in this paragraph shall be construed to prohibit or limit a
20 scholarly, journalistic, political, or government use of address
21 information obtained pursuant to this paragraph.

22 (g) Test questions, scoring keys, and other examination data
23 used to administer a licensing examination, examination for
24 employment, or academic examination, except as provided for in
25 Chapter 3 (commencing with Section 99150) of Part 65 of Division
26 14 of Title 3 of the Education Code.

27 (h) The contents of real estate appraisals or engineering or
28 feasibility estimates and evaluations made for or by the state or
29 local agency relative to the acquisition of property, or to
30 prospective public supply and construction contracts, until all of
31 the property has been acquired or all of the contract agreement
32 obtained. However, the law of eminent domain shall not be affected
33 by this provision.

34 (i) Information required from any taxpayer in connection with
35 the collection of local taxes that is received in confidence and the
36 disclosure of the information to other persons would result in unfair
37 competitive disadvantage to the person supplying the information.

38 (j) Library circulation records kept for the purpose of identifying
39 the borrower of items available in libraries, and library and museum
40 materials made or acquired and presented solely for reference or

1 exhibition purposes. The exemption in this subdivision shall not
2 apply to records of fines imposed on the borrowers.

3 (k) Records, the disclosure of which is exempted or prohibited
4 pursuant to federal or state law, including, but not limited to,
5 provisions of the Evidence Code relating to privilege.

6 (l) Correspondence of and to the Governor or employees of the
7 Governor's office or in the custody of or maintained by the
8 Governor's Legal Affairs Secretary. However, public records shall
9 not be transferred to the custody of the Governor's Legal Affairs
10 Secretary to evade the disclosure provisions of this chapter.

11 (m) In the custody of or maintained by the Legislative Counsel,
12 except those records in the public database maintained by the
13 Legislative Counsel that are described in Section 10248.

14 (n) Statements of personal worth or personal financial data
15 required by a licensing agency and filed by an applicant with the
16 licensing agency to establish his or her personal qualification for
17 the license, certificate, or permit applied for.

18 (o) Financial data contained in applications for financing under
19 Division 27 (commencing with Section 44500) of the Health and
20 Safety Code, where an authorized officer of the California Pollution
21 Control Financing Authority determines that disclosure of the
22 financial data would be competitively injurious to the applicant
23 and the data is required in order to obtain guarantees from the
24 United States Small Business Administration. The California
25 Pollution Control Financing Authority shall adopt rules for review
26 of individual requests for confidentiality under this section and for
27 making available to the public those portions of an application that
28 are subject to disclosure under this chapter.

29 (p) Records of state agencies related to activities governed by
30 Chapter 10.3 (commencing with Section 3512), Chapter 10.5
31 (commencing with Section 3525), and Chapter 12 (commencing
32 with Section 3560) of Division 4, that reveal a state agency's
33 deliberative processes, impressions, evaluations, opinions,
34 recommendations, meeting minutes, research, work products,
35 theories, or strategy, or that provide instruction, advice, or training
36 to employees who do not have full collective bargaining and
37 representation rights under these chapters. Nothing in this
38 subdivision shall be construed to limit the disclosure duties of a
39 state agency with respect to any other records relating to the

1 activities governed by the employee relations acts referred to in
2 this subdivision.

3 (q) (1) Records of state agencies related to activities governed
4 by Article 2.6 (commencing with Section 14081), Article 2.8
5 (commencing with Section 14087.5), and Article 2.91
6 (commencing with Section 14089) of Chapter 7 of Part 3 of
7 Division 9 of the Welfare and Institutions Code, that reveal the
8 special negotiator's deliberative processes, discussions,
9 communications, or any other portion of the negotiations with
10 providers of health care services, impressions, opinions,
11 recommendations, meeting minutes, research, work product,
12 theories, or strategy, or that provide instruction, advice, or training
13 to employees.

14 (2) Except for the portion of a contract containing the rates of
15 payment, contracts for inpatient services entered into pursuant to
16 these articles, on or after April 1, 1984, shall be open to inspection
17 one year after they are fully executed. If a contract for inpatient
18 services that is entered into prior to April 1, 1984, is amended on
19 or after April 1, 1984, the amendment, except for any portion
20 containing the rates of payment, shall be open to inspection one
21 year after it is fully executed. If the California Medical Assistance
22 Commission enters into contracts with health care providers for
23 other than inpatient hospital services, those contracts shall be open
24 to inspection one year after they are fully executed.

25 (3) Three years after a contract or amendment is open to
26 inspection under this subdivision, the portion of the contract or
27 amendment containing the rates of payment shall be open to
28 inspection.

29 (4) Notwithstanding any other provision of law, the entire
30 contract or amendment shall be open to inspection by the Joint
31 Legislative Audit Committee and the Legislative Analyst's Office.
32 The committee and that office shall maintain the confidentiality
33 of the contracts and amendments until the time a contract or
34 amendment is fully open to inspection by the public.

35 (r) Records of Native American graves, cemeteries, and sacred
36 places and records of Native American places, features, and objects
37 described in Sections 5097.9 and 5097.993 of the Public Resources
38 Code maintained by, or in the possession of, the Native American
39 Heritage Commission, another state agency, or a local agency.

1 (s) A final accreditation report of the Joint Commission on
2 Accreditation of Hospitals that has been transmitted to the State
3 Department of Health Care Services pursuant to subdivision (b)
4 of Section 1282 of the Health and Safety Code.

5 (t) Records of a local hospital district, formed pursuant to
6 Division 23 (commencing with Section 32000) of the Health and
7 Safety Code, or the records of a municipal hospital, formed
8 pursuant to Article 7 (commencing with Section 37600) or Article
9 8 (commencing with Section 37650) of Chapter 5 of Part 2 of
10 Division 3 of Title 4 of this code, that relate to any contract with
11 an insurer or nonprofit hospital service plan for inpatient or
12 outpatient services for alternative rates pursuant to Section 10133
13 of the Insurance Code. However, the record shall be open to
14 inspection within one year after the contract is fully executed.

15 (u) (1) Information contained in applications for licenses to
16 carry firearms issued pursuant to Section 26150, 26155, 26170,
17 or 26215 of the Penal Code by the sheriff of a county or the chief
18 or other head of a municipal police department that indicates when
19 or where the applicant is vulnerable to attack or that concerns the
20 applicant's medical or psychological history or that of members
21 of his or her family.

22 (2) The home address and telephone number of prosecutors,
23 public defenders, peace officers, judges, court commissioners, and
24 magistrates that are set forth in applications for licenses to carry
25 firearms issued pursuant to Section 26150, 26155, 26170, or 26215
26 of the Penal Code by the sheriff of a county or the chief or other
27 head of a municipal police department.

28 (3) The home address and telephone number of prosecutors,
29 public defenders, peace officers, judges, court commissioners, and
30 magistrates that are set forth in licenses to carry firearms issued
31 pursuant to Section 26150, 26155, 26170, or 26215 of the Penal
32 Code by the sheriff of a county or the chief or other head of a
33 municipal police department.

34 (v) (1) Records of the Managed Risk Medical Insurance Board
35 and the State Department of Health Care Services related to
36 activities governed by Part 6.3 (commencing with Section 12695),
37 Part 6.5 (commencing with Section 12700), Part 6.6 (commencing
38 with Section 12739.5), and Part 6.7 (commencing with Section
39 12739.70) of Division 2 of the Insurance Code, and Chapter 2

1 (commencing with Section 15850) of Part 3.3 of Division 9 of the
2 Welfare and Institutions Code, and that reveal any of the following:

3 (A) The deliberative processes, discussions, communications,
4 or any other portion of the negotiations with entities contracting
5 or seeking to contract with the board or the department, entities
6 with which the board or the department is considering a contract,
7 or entities with which the board is considering or enters into any
8 other arrangement under which the board or the department
9 provides, receives, or arranges services or reimbursement.

10 (B) The impressions, opinions, recommendations, meeting
11 minutes, research, work product, theories, or strategy of the board
12 or its staff or the department or its staff, or records that provide
13 instructions, advice, or training to their employees.

14 (2) (A) Except for the portion of a contract that contains the
15 rates of payment, contracts entered into pursuant to Part 6.3
16 (commencing with Section 12695), Part 6.5 (commencing with
17 Section 12700), Part 6.6 (commencing with Section 12739.5), or
18 Part 6.7 (commencing with Section 12739.70) of Division 2 of the
19 Insurance Code, or Chapter 2.2 (commencing with Section 15850)
20 of Part 3.3 of Division 9 of the Welfare and Institutions Code, on
21 or after July 1, 1991, shall be open to inspection one year after
22 their effective dates.

23 (B) If a contract that is entered into prior to July 1, 1991, is
24 amended on or after July 1, 1991, the amendment, except for any
25 portion containing the rates of payment, shall be open to inspection
26 one year after the effective date of the amendment.

27 (3) Three years after a contract or amendment is open to
28 inspection pursuant to this subdivision, the portion of the contract
29 or amendment containing the rates of payment shall be open to
30 inspection.

31 (4) Notwithstanding any other law, the entire contract or
32 amendments to a contract shall be open to inspection by the Joint
33 Legislative Audit Committee. The committee shall maintain the
34 confidentiality of the contracts and amendments thereto, until the
35 contracts or amendments to the contracts are open to inspection
36 pursuant to paragraph (3).

37 (w) (1) Records of the Managed Risk Medical Insurance Board
38 related to activities governed by Chapter 8 (commencing with
39 Section 10700) of Part 2 of Division 2 of the Insurance Code, and
40 that reveal the deliberative processes, discussions, communications,

1 or any other portion of the negotiations with health plans, or the
2 impressions, opinions, recommendations, meeting minutes,
3 research, work product, theories, or strategy of the board or its
4 staff, or records that provide instructions, advice, or training to
5 employees.

6 (2) Except for the portion of a contract that contains the rates
7 of payment, contracts for health coverage entered into pursuant to
8 Chapter 8 (commencing with Section 10700) of Part 2 of Division
9 2 of the Insurance Code, on or after January 1, 1993, shall be open
10 to inspection one year after they have been fully executed.

11 (3) Notwithstanding any other law, the entire contract or
12 amendments to a contract shall be open to inspection by the Joint
13 Legislative Audit Committee. The committee shall maintain the
14 confidentiality of the contracts and amendments thereto, until the
15 contracts or amendments to the contracts are open to inspection
16 pursuant to paragraph (2).

17 (x) Financial data contained in applications for registration, or
18 registration renewal, as a service contractor filed with the Director
19 of Consumer Affairs pursuant to Chapter 20 (commencing with
20 Section 9800) of Division 3 of the Business and Professions Code,
21 for the purpose of establishing the service contractor's net worth,
22 or financial data regarding the funded accounts held in escrow for
23 service contracts held in force in this state by a service contractor.

24 (y) (1) Records of the Managed Risk Medical Insurance Board
25 related to activities governed by Part 6.2 (commencing with Section
26 12693) or Part 6.4 (commencing with Section 12699.50) of
27 Division 2 of the Insurance Code, and that reveal any of the
28 following:

29 (A) The deliberative processes, discussions, communications,
30 or any other portion of the negotiations with entities contracting
31 or seeking to contract with the board, entities with which the board
32 is considering a contract, or entities with which the board is
33 considering or enters into any other arrangement under which the
34 board provides, receives, or arranges services or reimbursement.

35 (B) The impressions, opinions, recommendations, meeting
36 minutes, research, work product, theories, or strategy of the board
37 or its staff, or records that provide instructions, advice, or training
38 to employees.

39 (2) (A) Except for the portion of a contract that contains the
40 rates of payment, contracts entered into pursuant to Part 6.2

1 (commencing with Section 12693) or Part 6.4 (commencing with
2 Section 12699.50) of Division 2 of the Insurance Code, on or after
3 January 1, 1998, shall be open to inspection one year after their
4 effective dates.

5 (B) If a contract entered into pursuant to Part 6.2 (commencing
6 with Section 12693) or Part 6.4 (commencing with Section
7 12699.50) of Division 2 of the Insurance Code is amended, the
8 amendment shall be open to inspection one year after the effective
9 date of the amendment.

10 (3) Three years after a contract or amendment is open to
11 inspection pursuant to this subdivision, the portion of the contract
12 or amendment containing the rates of payment shall be open to
13 inspection.

14 (4) Notwithstanding any other law, the entire contract or
15 amendments to a contract shall be open to inspection by the Joint
16 Legislative Audit Committee. The committee shall maintain the
17 confidentiality of the contracts and amendments thereto until the
18 contract or amendments to a contract are open to inspection
19 pursuant to paragraph (2) or (3).

20 (5) The exemption from disclosure provided pursuant to this
21 subdivision for the contracts, deliberative processes, discussions,
22 communications, negotiations, impressions, opinions,
23 recommendations, meeting minutes, research, work product,
24 theories, or strategy of the board or its staff shall also apply to the
25 contracts, deliberative processes, discussions, communications,
26 negotiations, impressions, opinions, recommendations, meeting
27 minutes, research, work product, theories, or strategy of applicants
28 pursuant to Part 6.4 (commencing with Section 12699.50) of
29 Division 2 of the Insurance Code.

30 (z) Records obtained pursuant to paragraph (2) of subdivision
31 (f) of Section 2891.1 of the Public Utilities Code.

32 (aa) A document prepared by or for a state or local agency that
33 assesses its vulnerability to terrorist attack or other criminal acts
34 intended to disrupt the public agency's operations and that is for
35 distribution or consideration in a closed session.

36 (ab) Critical infrastructure information, as defined in Section
37 131(3) of Title 6 of the United States Code, that is voluntarily
38 submitted to the California Emergency Management Agency for
39 use by that office, including the identity of the person who or entity
40 that voluntarily submitted the information. As used in this

1 subdivision, “voluntarily submitted” means submitted in the
2 absence of the office exercising any legal authority to compel
3 access to or submission of critical infrastructure information. This
4 subdivision shall not affect the status of information in the
5 possession of any other state or local governmental agency.

6 (ac) All information provided to the Secretary of State by a
7 person for the purpose of registration in the Advance Health Care
8 Directive Registry, except that those records shall be released at
9 the request of a health care provider, a public guardian, or the
10 registrant’s legal representative.

11 (ad) The following records of the State Compensation Insurance
12 Fund:

13 (1) Records related to claims pursuant to Chapter 1
14 (commencing with Section 3200) of Division 4 of the Labor Code,
15 to the extent that confidential medical information or other
16 individually identifiable information would be disclosed.

17 (2) Records related to the discussions, communications, or any
18 other portion of the negotiations with entities contracting or seeking
19 to contract with the fund, and any related deliberations.

20 (3) Records related to the impressions, opinions,
21 recommendations, meeting minutes of meetings or sessions that
22 are lawfully closed to the public, research, work product, theories,
23 or strategy of the fund or its staff, on the development of rates,
24 contracting strategy, underwriting, or competitive strategy pursuant
25 to the powers granted to the fund in Chapter 4 (commencing with
26 Section 11770) of Part 3 of Division 2 of the Insurance Code.

27 (4) Records obtained to provide workers’ compensation
28 insurance under Chapter 4 (commencing with Section 11770) of
29 Part 3 of Division 2 of the Insurance Code, including, but not
30 limited to, any medical claims information, policyholder
31 information provided that nothing in this paragraph shall be
32 interpreted to prevent an insurance agent or broker from obtaining
33 proprietary information or other information authorized by law to
34 be obtained by the agent or broker, and information on rates,
35 pricing, and claims handling received from brokers.

36 (5) (A) Records that are trade secrets pursuant to Section
37 6276.44, or Article 11 (commencing with Section 1060) of Chapter
38 4 of Division 8 of the Evidence Code, including without limitation,
39 instructions, advice, or training provided by the State Compensation
40 Insurance Fund to its board members, officers, and employees

1 regarding the fund's special investigation unit, internal audit unit,
2 and informational security, marketing, rating, pricing, underwriting,
3 claims handling, audits, and collections.

4 (B) Notwithstanding subparagraph (A), the portions of records
5 containing trade secrets shall be available for review by the Joint
6 Legislative Audit Committee, the Bureau of State Audits, Division
7 of Workers' Compensation, and the Department of Insurance to
8 ensure compliance with applicable law.

9 (6) (A) Internal audits containing proprietary information and
10 the following records that are related to an internal audit:

11 (i) Personal papers and correspondence of any person providing
12 assistance to the fund when that person has requested in writing
13 that his or her papers and correspondence be kept private and
14 confidential. Those papers and correspondence shall become public
15 records if the written request is withdrawn, or upon order of the
16 fund.

17 (ii) Papers, correspondence, memoranda, or any substantive
18 information pertaining to any audit not completed or an internal
19 audit that contains proprietary information.

20 (B) Notwithstanding subparagraph (A), the portions of records
21 containing proprietary information, or any information specified
22 in subparagraph (A) shall be available for review by the Joint
23 Legislative Audit Committee, the Bureau of State Audits, Division
24 of Workers' Compensation, and the Department of Insurance to
25 ensure compliance with applicable law.

26 (7) (A) Except as provided in subparagraph (C), contracts
27 entered into pursuant to Chapter 4 (commencing with Section
28 11770) of Part 3 of Division 2 of the Insurance Code shall be open
29 to inspection one year after the contract has been fully executed.

30 (B) If a contract entered into pursuant to Chapter 4 (commencing
31 with Section 11770) of Part 3 of Division 2 of the Insurance Code
32 is amended, the amendment shall be open to inspection one year
33 after the amendment has been fully executed.

34 (C) Three years after a contract or amendment is open to
35 inspection pursuant to this subdivision, the portion of the contract
36 or amendment containing the rates of payment shall be open to
37 inspection.

38 (D) Notwithstanding any other law, the entire contract or
39 amendments to a contract shall be open to inspection by the Joint
40 Legislative Audit Committee. The committee shall maintain the

1 confidentiality of the contracts and amendments thereto until the
2 contract or amendments to a contract are open to inspection
3 pursuant to this paragraph.

4 (E) This paragraph is not intended to apply to documents related
5 to contracts with public entities that are not otherwise expressly
6 confidential as to that public entity.

7 (F) For purposes of this paragraph, “fully executed” means the
8 point in time when all of the necessary parties to the contract have
9 signed the contract.

10 This section shall not prevent any agency from opening its
11 records concerning the administration of the agency to public
12 inspection, unless disclosure is otherwise prohibited by law.

13 This section shall not prevent any health facility from disclosing
14 to a certified bargaining agent relevant financing information
15 pursuant to Section 8 of the National Labor Relations Act (29
16 U.S.C. Sec. 158).

17 SEC. 3. The Legislature finds and declares that Section 2 of
18 this act, which amends Section 6254 of the Government Code,
19 imposes a limitation on the public’s right of access to the meetings
20 of public bodies or the writings of public officials and agencies
21 within the meaning of Section 3 of Article I of the California
22 Constitution. Pursuant to that constitutional provision, the
23 Legislature makes the following findings to demonstrate the interest
24 protected by this limitation and the need for protecting that interest:

25 The potential disclosure of attorneys’ billing records could be
26 damaging to the legal interests of public agencies because these
27 records, when disclosed during the pendency of litigation, may
28 reveal significant strategic facts to the opposing litigant.